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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,959	12/14/2004	Eric Fresnel	6758-0005WOUS	3762
<div>7590 05/10/2007 Marina F Cunningham McCormick Paulding & Huber CityPlace II 185 Asylum Street Hartford, CT 06103-3402</div>			<div>EXAMINER AUGHENBAUGH, WALTER</div>	
			<div>ART UNIT 1772</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 05/10/2007</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/517,959	Applicant(s) FRESNEL, ERIC	
	Examiner Walter B. Aughenbaugh	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): 112, first paragraph, rejection of claims 11, 12 and 24.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

REQUEST FOR RECONSIDERATION

1. In regard to the “nine (9) examples of websites relating to plastics films and / or packaging” (pages 4-5 of the Request for Reconsideration), Applicant did not attempt to provide the required showing of good and sufficient reasons why the evidence is necessary and was not earlier presented, so this evidence has not been entered. 37 CFR 1.116(e). Applicant had the opportunity to submit this evidence along with the Amendment filed November 8, 2006 (and an explanation of how the submitted evidence overcomes the rejection of record) after the Non-Final Rejection mailed August 8, 2006 and prior to final rejection.

WITHDRAWN OBJECTION

2. The objection to the specification made of record in paragraph 10 of the previous Office Action mailed January 23, 2007 has been withdrawn due to Applicant’s arguments on pages 3-4 of in the Request for Reconsideration filed April 13, 2007, which refer to paragraphs 0057 and 0058 and Fig. 7 and 8 (of Applicant’s specification).

WITHDRAWN REJECTIONS

3. The 35 U.S.C. 112, first paragraph, rejection of claims 11, 12 and 24 made of record in paragraph 12 of the previous Office Action mailed January 23, 2007 has been withdrawn due to Applicant’s arguments on pages 3-4 of in the Request for Reconsideration filed April 13, 2007, which refer to paragraphs 0057 and 0058 and Fig. 7 and 8 (of Applicant’s specification).

Response to Argument

4. Applicant’s arguments presented on pages 2-3 of the Request for Reconsideration filed April 13, 2007 regarding the 35 U.S.C. 102 rejection of claims 1, 2, 4-12 and 22-25 have been fully considered but are not persuasive.

The language of claim 13 reads on a wrapper (comprising a sleeve) that has been shrunk onto an article. There is nothing in the claim language that limits the wrapper to a wrapper that has "*not yet* been shrunk onto an article", contrary to Applicant's argument to this effect on page 2 of the After Final Amdt. The phrases "for packaging" and "for shrinking" do not require that the wrapper has "*not yet* been shrunk onto an article".

5. Applicant's arguments presented on pages 3-4 of the Request for Reconsideration filed April 13, 2007 regarding the 35 U.S.C. 112, first paragraph, rejection of claims 11, 12 and 24 made of record in paragraph 12 of the previous Office Action mailed January 23, 2007 are convincing (so this rejection has been withdrawn as stated above).

6. Applicant's arguments presented on pages 4-6 of the Request for Reconsideration filed April 13, 2007 regarding the 35 U.S.C. 112, second paragraph, rejection of claims 2, 4, 10, 11 and 24 have been fully considered but are not persuasive.

In regard to the terms "rigid" and "semi-rigid", it cannot be ascertained where the line is drawn between a material that would be considered "semi-rigid" and a material that would be considered "rigid". The scope intended to be delineated by "semi" is particularly difficult to ascertain. Applicant has not attempted to show in argument how the "nine (9) examples of websites relating to plastics films and / or packaging" show where the line is drawn between a material that would be considered "semi-rigid" and a material that would be considered "rigid". Applicant has not shown that each of the nine websites use each of the terms "rigid" and "semi-rigid" in the same (or similar) way, as would be required if both of these terms were terms having well-established definitions that are recognized by those of ordinary skill in the art as alleged by Applicant.

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In regard to claim 4, the language used in claim 4 does not conform to how something would be described as being coated. A coating is coated onto something. That something is not referred to as being “coated in the” coating. The scope of the structure that is delineated by “coated in the” simply cannot be ascertained, and it is unclear how one of ordinary skill in the art reading the claim would read “coated in the technical agent” as reciting solely a coating of technical agent on either or both faces of the sleeve, as Applicant seems to argue on page 5 of the Request for Reconsideration (and as Applicant intends to claim, based on Applicant’s argument).

Applicant is correct in assuming that the ground of rejection regarding “presents...” in claim 11 has been withdrawn due to the amendment in claim 11 in the previous Amendment.

Applicant’s arguments regarding what “of lens type” “would be recognized” to be is unsupported. Applicant admits there is “a lack of specificity”. The combination of “a lack of specificity” and use of “type” renders the term “lens type” indefinite.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Walter B. Aughenbaugh

5/05/07

WBA



JENNIFER MCNEIL
SUPERVISORY PATENT EXAMINER

5/7/4